

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
1:25-cv-00368-TDS-JLW**

United Therapeutics Corporation,

Plaintiff,

v.

Liquidia Technologies, Inc.,

Defendant.

**DEFENDANT LIQUIDIA TECHNOLOGIES, INC.’S
MOTION TO SEAL**

Pursuant to Local Rule 5.4, Defendant Liquidia Technologies, Inc. (“Liquidia”) submits this Motion to Seal certain materials related to Liquidia’s Opposition to Plaintiff’s Motion for Preliminary Injunction. In support of this motion, Liquidia shows the following.

1. This case is part of series of attempts by UTC to use litigation to prevent Liquidia from marketing a life-saving drug, Yutrepia. UTC presently seeks a preliminary injunction to block Yutrepia’s launch. (*See* DE 3–4). Liquidia files this Motion to Seal in connection with certain exhibits filed in support of Liquidia’s brief in opposition to UTC’s request for a preliminary injunction.

2. A motion to seal should be granted when the right to access the documents or information, as protected by both the common law and the First Amendment, is not violated. *Stone v. Univ. of Md. Med. Sys. Corp.*, 855 F.2d 178, 180 (4th Cir. 1988). The Court begins with a presumption of a public’s right to access; however, this presumption

may be overcome when there is a competing interest that outweighs the interest to access. *Id.*; *Rushford v. New Yorker Magazine, Inc.*, 846 F.2d 249, 253 (4th Cir. 1988) (The presumption of public access “can be rebutted if countervailing interests heavily outweigh the public interests in access.”). In weighing these competing interests, courts may consider various factors, including “whether the records are sought for improper purposes, such as promoting public scandals or unfairly gaining a business advantage; whether release would enhance the public’s understanding of an important historical event; and whether the public has already had access to the information contained in the records.” *In re Knight Publ’g Co.*, 743 F.2d 231, 235 (4th Cir. 1984).

3. LR5.2(c)(3) requires any party claiming confidentiality to show “why sealing is necessary and why less drastic alternatives will not afford adequate protection.”

4. Liquidia has filed under temporary seal information in several documents that UTC has previously treated as, or that Liquidia reasonably believes UTC would treat as, confidential. These materials are:

- a. Liquidia’s Opposition to Plaintiff’s Motion for Preliminary Injunction
- b. Preliminary Injunction Declaration of Frederic Selck, Ph.D. filed in *United Therapeutics Corp. v. Liquidia Techs., Inc.*, No. 23-cv-975-RGA, ECF No. 29 (D. Del.).

5. Pursuant to LR5.4(c)(4)(b), UTC may file a response in support of keeping these documents under seal. Sealing is therefore necessary to allow UTC an opportunity to provide its response.

Accordingly, Liquidia, files its opposition brief and the Declaration of Frederic Selck, Ph.D. provisionally under seal, pending a response from UTC under LR5.4(c)(4)(b) and further order from the Court.

This the 30th day of May, 2025.

/s/ Stephen V. Carey

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was electronically filed with the Clerk of the Court by using the CM/ECF System which will automatically send notice of all attorneys of record.

This the 30th day of May, 2025.

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